HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 666 of 2001
Old No. 1042 of 1988

Sarvodya Seva Sadan Parishad ..... Petitioner

Versus

State of U.P. & others ..... Respondents

Dated: 18.8.2004

Hon. Rajesh Tandon, J.

By the present appeal the appellant has challenged the judgment and order dated 29.9.1988 passed by the District Judge, Almora in Civil Misc. case No. 44 of 1988, whereby the District Judge has allowed the application of the respondent and cancelled the succession certificate dated 16.10.1987 passed in Misc. Succession Case No. 25 of 1987.

Briefly stated the facts giving rise to the present writ petition are that the appellant has filed an application for grant of succession certificate and notices were issued and also published in the news paper but no objection was filed against the application. The application was, therefore, allowed on 2.6.1987. Subsequently one Har Singh has moved an application 17-C with the allegations that Netra Ballabh is not

the heir and he wants to get the property for his own use. The learned District Judge allowed the application and succession certificate issued in favour of the petitioner was cancelled.

The counsel for the appellant has stated that interest of the State of U.P. has not been shown so as to move the application. The counsel for the appellant brought to the notice of the Court a document annexure-4 where it has been mentioned that the entire immovable will be vested in the institution of the appellant.

Considering the aforesaid facts and circumstances the order dated 29.9.1988 passed by the District Judge, Almora is set aside and the matter is sent back to the District Judge, Almora for deciding it afresh after affording opportunity to the parties to lead evidence and in accordance with law.

Consequently, the appeal is allowed. No order as to costs.

(Rajesh Tandon, J.)

18.8.2004
*Dhyani